DOCUMENT RESUME

ED 119 674 IR 003 137

AUTHOR Gandy, Oscar; And Others
TITLE Citizen Action and Broadcasters' Interests: The Record of the FCC.
PUB DATE Apr 76
NOTE 28p.; Paper presented at the International Communication Association Annual Meeting (Portland, Oregon, April 1976)

EDRS PRICE MF-$0.83 HC-$2.06 Plus Postage
DESCRIPTORS *Broadcast Industry; Broadcast Television; *Citizen Participation; Citizen Role; Community Organizations; Federal Government; Programing (Broadcast)
IDENTIFIERS FCC; *Federal Communications Commission

ABSTRACT

A study was conducted to investigate the complex influences which converge on the Federal Communications Commission (FCC). The literature revealed that in the past, most attempts by individuals or groups to have a voice in the renewal of a broadcaster's license met with failure because the FCC generally abandoned both its formulated policy and its evaluated standards in favor of a general bias toward the licensee. During 1963-1973 there were over 250 petitions filed with the FCC, but the bulk were either dismissed or withdrawn. In this study, a questionnaire was completed for 230 cases brought before the FCC by individuals or groups outside the broadcasting industry, and economic information was collected for each licensee involved. The analysis produced support for the hypothesis that the FCC will generally favor those parties who have the greatest financial investment at risk as a result of the commission action and will generally be more responsive to the appeals of organizations with high national visibility in areas other than broadcasting. A bibliography of 19 items is included. (Author/DS)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED119674

CITIZEN ACTION AND BROADCASTERS' INTERESTS: THE RECORD OF THE FCC

Oscar Gandy
Timothy Haight
Jorge Reina Schement
Esteban Soriano
Institute for Communication Research
Stanford University

and

Felix F. Gutierrez
Department of Journalism
California State University, Northridge

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Presented at the Annual Convention
of the International Communication Association
Portland, Oregon
April 1976

(Authors listed in alphabetical order)

IR003 137

INTRODUCTION:

In 1964, a group of organizations representing the Black community of Jackson, Mississipi petitioned the Federal Communications Commission (FCC) for a hearing to challenge the application for renewal of the license of television station WLBT. The FCC denied the request, stating that since the citizen groups were not actually applying for WLBT's license themselves, they lacked the necessary economic interest to participate in the proceedings. With the assistance of the United Church of Christ (UCC), these citizen groups began a series of court actions against the Commission.

Following the dramatic decision of the District of Columbia Court of Appeals that groups with "significant roots" in the community did indeed have "standing" before the FCC (Office of Communications of the United Church of Christ v. F.C.C., 1966), private citizens and community groups initiated a flood of actions against broadcast licenses. In support of the growing interest and activism at the local level, several national organizations gained prominence for their ability to break through the seeming insurmountable barriers of the administrative bureaucracy. The more successful of these organizations, including the Citizens Communication Center (CCC) and Black

Efforts for Soul in Television (BEST), were able to combine their legal expertise and their physical proximity to the Commission into a workable formula for action.

By 1971, the level of organization among the media activists was such that it was possible for them to mount simultaneous challenges in cities at opposite ends of the country. Black and Chicano groups from three cities joined forces in 1971 and filed a petition to deny the license transfers of WFIL-TV in Philadelphia, WNHC in New Haven, Connecticut, and KFRE-TV in Fresno, California to Captial Cities Broadcasting Corporation. The groups charged, among other things, that the stations had engaged in discriminatory employment practices and had fallen short in the area of minority programming. On the strength of the economic threat the petition represented, Capital Cities representatives forged an unprecedented agreement with the citizen groups that sent tremors of fear throughout the broadcasting industry. Capital Cities agreed to provide substantially increased training and employment opportunities at the three stations, and in addition, agreed to set aside $1 million to be used in the next three years to develop programming which would reflect minority cultural experiences.

The following year, a coalition of Chicano groups filed a petition to deny the planned transfer of four stations owned by Time-Life to another publishing concern, McGraw-Hill. As Capital Cities had done before them, McGraw-Hill responded to the demands of the Coalition and agreed to hire more minority workers, to produce more public service announcements for community organizations in the minority community, and to increase the amount of minority-oriented programming.

In addition, McGraw-Hill agreed to the formation of a minority advisory council which would play a major role in determining the station's planning, program production, and ascertainment activities (Atkins, 1972; Burton, 1972). For the broadcast industry, these major concessions came to be seen as potentially serious threats to their previous position of independence and profitability.

Since that time, there have been several attempts by the industry to generate and support legislative efforts to isolate them from these citizen activists. One such attempt was the Broadcast License Renewal Bill which would have reduced citizen pressure by lengthening the renewal period from three to five years.

Currently, the enthusiasm of citizen activists appears to have been tempered by the substantial costs in terms of time and legal fees which have come to characterize the renewal process (ACCESS reports that petitions to deny the renewal of a license which took about eighteen months to process in 1973, now take nearly three years---the present length of the renewal term. ACCESS, 1975). Some groups have turned their attention away from the petition approach, and have begun the perhaps more arduous task of preparing competing applications to become broadcasters themselves. One such challenge is now being made by Public Communicators, Incorporated, in San Jose, California.

At this apparent turning point in the relationship between broadcasters, private citizens and administrative agencies, we felt that it was important to step back and examine what had transpired. From our position as media activists we felt a need for a critical evaluation of the benefits and losses associated with past directions and actions so that we might plan more realistically for the future. From our

position as communication scholars, we wanted to comprehend more fully the complex influences which converge on the government's administrative bureaucracies. Neither of these needs had been filled by the available literature on the FCC and the citizen movement in broadcasting. This paper represents the fruit of our first efforts to understand the FCC.

UNDERSTANDING THE FCC:

The literature on the FCC falls into three broad categories; the anecdotal literature, which includes legal reviews and historical case studies; the theoretical, wherein a systematic attempt is made to identify and explain FCC behavior in a variety of contexts; and finally, the empirical research which incorporates observed regularities into an explanatory framework in order to predict the Commission's behavior under a similar set of circumstances. By far, the largest category of the three is the anecdotal. As is often the case, there is more agreement between the authors of the anecdotal literature than among the empiricists, who seek verification of some very tentative hypotheses.

As we examined this anecdotal evidence, several distinct patterns emerged. The first is that the Commission does not enforce the policies which are of particular interest to community groups. This failure of enforcement applies both to stated rules and to administrative law standards. With respect to equal employment opportunity, for example, the Commission is seen to have moved fairly rapidly to formulate rules for its promotion, however,

> as critics of the originally formulated rules had predicted, proceeding on a complaint basis has not significantly furthered the cause of minority employment in broadcasting. When discrimination occurs, its forms are frequently subtle and difficult to detect. In practice, examples of flagrant discrimination are rare, but even when they have been brought to the FCC's attention, the FCC has refused to act (Daly, 1973, p. 667).

With respect to Fairness Doctrine actions, the pattern is reported to be much the same. "In theory," one author writes, "filing a Fairness complaint is easy. After seeking redress from the station (by written correspondence or otherwise), a listener or viewer may contact the Commission...but the reality of the Commission's administration of the fairness doctrine usually reduces the filing of a fairness complaint to an exercise in futility" (Kramer, 1973, p. 73). As Bradley Canon wrote, "since 1948, not one broadcaster has lost his license or received any other meaningful punishment for violating the 'fairness' doctrine. Of the more than 2,000 'fairness' complaints received by the FCC since 1960, only two have even acheived formal recognition (i.e., an adjudicatory hearing) from the Commission..." (Canon, 1968, p. 6). (Since Canon's analysis was completed, at least one station, Brandywine-Mainline Radio's WXUR, has lost its license as a result of fairness doctrine complaints, but the relative number of such decisions remains infinitesimally small).

The device the Commission uses to justify dismissing such a large proportion of these complaints without formal review is the application of a stringent set of criteria which each complaint must meet. Geller notes that when these standards were adopted, it was explicitly hoped that their publication would substantially reduce the number of complaints actually filed. In Geller's view:

> "The FCC's complaint policy is thus one that poses a serious obstacle to the complainant. Because the FCC has held that the station need not supply any information...the complainant has only one option--to monitor the station for some significant period of time. But monitoring, too, is a substantial burden. It has been undertaken in a few exceptional cases, but the usual complainant is unlikely to be so motivated or dedicated to fairness principles as to be either aware of, or willing to undertake, such an obligation" (Geller, 1973, pp. 21-22).

In the renewal area, similar requirements of unusual dedication and thoroughness in the collection of data face citizen groups or private individuals who are in some way dissatisfied with broadcast performance. Nicholas Johnson reports that the most powerful citizen weapon, the petition to deny, faces three Commission tactics which usually result in dismissal:

> First, it (the Commission) may conclude that the allegations in a petition to deny are too 'general.' This approach is frequently used to thwart petitions alleging failure to ascertain adequately community needs and failure to broadcast programming to meet those needs.
>
> Since a staff ruling that a petition to deny is too 'general' is analogous to a judicial ruling that a complaint is inartfully drawn, logic suggests that the staff should permit amendments. The staff, however, does not allow petitioners to amend their complaints. It is not nearly so harsh on licensees: An inadequate ascertainment survey may be amended.
>
> The staff's second approach to petitions to deny is simply to resolve disputed facts in the licensee's favor without holding a hearing...
>
> The staff's third method of avoiding hearings on petitions to deny is to accept the facts as alleged, but assert that, even if true, such facts do not warrant denial of the renewal application...(Johnson, 1973, pp. 1606-1608).

It would seem, at least on the basis of the anecdotal evidence presented so far, that in the fields of equal employment, renewal applications and fairness doctrine complaints, the stated policies of the FCC are negated by the actual practice of Commissioners and their staff. In Johnson's words, "the FCC no longer approves of its own rules and precedents, it simply ignores them" (Johnson, 1973, p. 1633).

Noll, Peck & McGowan suggest that the reasons behind the Commission's actions have an economic base. Only once, against WHDH in Boston, has the Commission used its most powerful sanction, the refusal of a license renewal against a VHF network affiliate in a major market. They estimate the combined worth of the stations in the top 50 markets at more than $4 billion and suggest that the FCC in no way takes lightly the possible loss of a multi-million dollar station (Noll, et al., 1973, pp. 114-115).

Perhaps the most forgiving explanation for what would appear to be regulatory perference for the status quo, is simply that proximity breeds friendship. In viewing the relationship between industry and its regulators, Krasnow and Longley note that:

> "On a day-to-day basis, Commissioners are forced to immerse themselves in the field they propose to regulate; however, the line between gaining familiarity with an industry's problems and becoming biased thereby in favor of that industry is perilously thin. It is difficult for Commissioners and their staff to operate closely with an industry without coming to see its problems in industry terms" (Krasnow, et al., 1973, p. 32).

Others suggest that the probability of future employment in the regulated industry is an important, though unmeasured influence on one's regulatory perspective (Noll, et al., 1973, pp. 123-4).

To summarize the anecdotal evidence at this point: The FCC abandons both its formulated policies and its evolved standards in favor of a general bias in favor of the licensee in the disposition of most of the complaints, petitions or other actions before it. It also works to minimize the amount of work it must perform--at the expense of the complainants. This posture is supported by the Commission's identification with the values and interests of the industry it is charged with regulating.

Simply stated, one could hypothesize that the overwhelming tendency of the FCC is to favor the interests of the licensee over the interests expressed by nonbroadcast complainants. Clearly, such a hypothesis would not contribute much to our understanding of the FCC as an administrative agency responding to public pressure. Fortunately, the recent work of Noll and his associates, and of Krasnow and Longley, take us a bit further.

The basic assuption underlying the Noll hypothesis is that the Commission's behavior is a rational attempt "to maximize some objective function, including the welfare of the Commissioners as individuals and of groups affected by their decisions, and the survival and growth of the regulatory agency" (Noll, et al., 1973, p. 121).

Krasnow and Longley suggest that Commission behavior is subject to at least five significant pressures external to itself. These are briefly, the Congress, the broadcasting industry, the White House, citizen groups and the courts. Congress, or more specifically, members of key congressional committees, exercise control over the FCC through their control of the Commission's purse strings. The Appropriations Committee is seen to restrict the freedom of the Commission though the allocation of a budget which is simply too small to support an adequate investigatory staff. Other congressional controls over the Commission would include the power of Congressional investigation, the power of advice and consent on the appointment of Commissioners, and direct supervision through oversight committees.

The broadcasting industry, on the other hand, influences both Congress and the FCC. Political figures are dependent on regular and favorable coverage by the nation's electronic news media. Even the most

powerful of national figures treads softly on the media's interests.

Nonbroadcast groups are seen to influence the FCC's behavior only in those few cases where the group has a sufficiently large 'per capita' interest in the Commission's decisions to sustain a lengthy and expensive lobbying effort. In the absence of such a concerted effort, the Commission views itself as serving the public interest by maintaining a "low profile" while meeting the more insistent demands of the everpresent broadcast lobby. Noll, et al, hypothesize that the FCC will make decisions favorable to broadcasters in all but two instances: (1) when the issue has important political implications--and will therefore generate significant public scrutiny of FCC decisions; and (2) when an issue arises which involves powerful interest groups other than the broadcast lobby (pp. 124-125).

What emerges at this stage in our review of the anecdotal literature is the faint outline of what we call the "market power hypothesis." The wealthier stations in the larger markets represent considerable economic and political power, the disturbance of which the FCC seeks to avoid.

THE EVIDENCE FROM EMPIRICAL RESEARCH:

That the FCC's decisions are often in conflict with their own stated policy is demonstrated in a study reported by Noll, et al. Reviewing some 45 license applications between 1967 and 1970, the authors used multiple regression analysis to estimate the most powerful predictors of success in application. The stated policy of the Commission, that local ownership, public affairs programming and local program origination were to be favored in competitive hearings, was found to be negatively correlated with how licenses were actually awarded. Instead, the amount of pro-

gramming promised was the most powerful predictor. It was found, however, that the Commission's policy toward media concentration was consistently followed, in that cross-media ownership usually guaranteed denial of an application (noll, et al., 1973).

In support of the contention that insufficient staff places considerable burdens on complainants who have to collect evidence in support of their complaint, Canon's (1969a) study concludes that poorly-funded citizen complaints are doomed to failure. He analyzed the FCC's disposition of fairness doctrine complaints in the following way: noting that the Commission examines each complaint in a formal process involving several stages, he classified the disposition of complaints into four categories; nonactionable, rejected, mooted and sustained. Overall 79.2 percent of all the fairness complaints studied were rejected as nonactionable. The key factor in the acceptance or rejection of these complaints seems to have been the precision with which the complaint was specified. Canon suggested that FCC staff would freely admit the accuracy of the impressions generally put forth in the complaints, but the lack of sufficient detail led to their rejection without further investigation on the part of the Commission.

More importantly for the market power hypothesis, Canon found that the source of the complaint made a difference in its disposition. While more than 75 percent of the complaints came from private citizens, more than 75 percent of the "successful" complaints came from organized groups. Organizations with specific religious or political orientations had higher rates of success than did groups with other social constituencies. Further, Canon's study reported that 86.5 percent of the cases

in metropolitan areas were ruled to be nonactionable, as compared with 67.9 percent of those from medium sized cities, or 67.8 percent of those originating in rural areas.

With these few exceptions, very little empirical research has sought to explicitly test the market power hypothesis that:

> In the exercise of its administrative responsibilities, the FCC will generally favor the parties who have the greatest financial investment at risk as a result of Commission action. (1)

In operation, this would mean that in larger markets, where the market value of a broadcast license is greater, the FCC would be less likely to exercise regulatory sanctions which would threaten that investment.

While Canon's study noted the importance of formal organization and traditional constituencies, the focus on "fairness complaints" cannot be reasonably generalized to the variety of complaints raised by community groups in support of their petitions to deny. It could be hypothesized however that:

> In the exercise of its administrative responsibilities, the FCC will generally be more responsive to the appeals of organizations with high national visibility in areas other than broadcasting. (2)

This would mean that when challenger could claim the support of national organizations, their chance of success before the Commission would be greatly enhanced.

Influenced to a great extent by Canon's use of the legal literature, we sought to test both these hypotheses on a broader range of complaints, and for a period which was characterized by a dramatic increase in the number of formal actions initiated by citizens outside the broadcasting industry.

THE DECADE OF ACTIVISM: 1963-1973

Design for Research:

It is of course impossible to capture the complexity of the citizen movement in broadcasting entirely from the written record. Although there were more than 250 petitions to deny filed with the FCC by persons or groups outside the broadcast industry between 1963-73, a great many of them were either dismissed without a hearing or were withdrawn by the petitioners (Dillon, 1974). Often, petitions were withdrawn because challengers were able to come to an understanding with licensees such as the historic Capital Cities or McGraw-Hill agreements cited above. A complete understanding of the dynamics of the negotiating process requires extensive interviewing of the participants withing a case-study method of the sort reported elsewhere by our group (Schement, et al., 1976).

Still there is much to be learned from those cases that did evoke at least some formal public response from the FCC. One source for these responses is Pike and Fisher's RADIO REGULATION, an independent publication. It collects, indexes and publishes all decisions of the FCC and some selected actions of courts and other Federal agencies having some bearing on FCC activities.

In the Digest of the Second Series, RADIO REGULATION indexes 24 factors which are important in allocating broadcast licenses (paragraph 53.24, Broadcast Facilities; Showing Required). We selected five subheadings on the basis of their presumed importance to minority citizen groups: 1) L-Participation in civic activities; 2) P- Sense of public service responsibility; 3) Q- Record of past performance; 4) R- Programming; 5) Y- Ability to make plans, efforts to ascertain community

needs. Because of the purposive nature of this sample, there were undoubtedly many decisions by the FCC in response to citizen action which did not enter into our analysis. However, all cases represented by citations under these five headings which were not duplicates, general policy statements, or decisions by courts or other government agencies were included in our study.

It was a popular tactic of citizen activists of this period to include several broadcasters in a single petition. It was also the practice of the FCC to respond to these petitions in a similar collective fashion. Since we were interested in the characteristics of the broadcasters as well as those of the petitioners, each licensee explicitly identified in a petition or complaint filed by non-broadcasters was treated as an individual case, or unit of analysis.

For each case, a questionnaire was completed. Information was recorded on the nature of the action before the FCC, the level within the Commission where the decision was rendered, the outcome of that decision and the number of dissents to each decision. We also recorded statements by the Commission about why a given action failed. In addition to the information about the Commission's behavior, several questions gathered data about the various individuals, groups and issues involved. Finally, economic information was collected for each licensee from issues of TELEVISION FACTBOOK, SPOT RADIO RATES AND DATA, and BROADCASTING YEARBOOK published in the same year as the FCC decision. Questionnaires were completed for 230 cases that met the stated requirements and involved petitioners not affiliated with the broadcasting industry.

The Sample:

Because of the purposive nature of the sample, our findings cannot be generalized to all cases hai iled by the FCC during this period, but they are representative of decisions rendered by the Commission in five important areas of license renewal requirements.

Table 1 provides an indication of the kinds of participants, and the nature of the complaints that were decided on by the Commission.

Table 1

	CHARACTERISTICS	PERCENTAGES OF CASES*(n=230)
,-	Private Citizen	47.4
P	Local Group (non media)	30.9
E	Local Community Media Group	21.3
T	Local Coalition of Groups	26.5
I	National Organization (non media)	20.9
T	National Media Organization	10.0
I	National-Local Coalition	1.7
O	National Coalition	3.9
N		
E	Racial, Ethnic or Cultural Affiliation	42.2
R	Religious Affiliation	11.3
S	Professional Group Affiliation	17.0
,-	Political Organization	4.3
,-	Black racial, ethnic or cultural concerns	40.0
,	Chicano racial, ethnic or cultural concerns	10.4
,		
I	Programming Issues	95.7
S	Community Participation	21.3
S	Ascertainment/planning	36.1
U	Employment	31.3
E		
S	Minority Program delection, change or lack	42.2
,	Fairness/public issues	22.2
,	News program content objection	25.7
,-	News, public affairs program deletion/change/lack	30.4

*Due to multiple responses, percentages add to more than 100%

The figures suggest that the choice of the five performance categories was appropriate, since at least 40 percent of the cases involved minority organizations, or were about minority programming issues. There were also sufficient cases to allow for an examination of the influence that the degree of petitioner organization would have on the outcome of actions before the Commission

FINDINGS:

Table 2 describes the outcomes of the 230 cases.

Table 2

Outcome of Commission Action

OUTCOME	PERCENTAGE OF CASES (n)
Rejection of Complaint/ License Granted	75.2 (173)
Returned for Further Consideration by the FCC	14.8 (34)
Requests for Waivers of the Rules Granted	5.7 (13)
Fines Levied	0.0
Limited License Renewal Granted	3.5 (8)
License Denied or Revoked	0.9 (2)

Clearly, the distribution of outcomes is heavily skewed in favor of the licensees. This is consistent with both the anecdotal and the empirical literature which reports the general tendency of the FCC to reject petitions and complaints for a variety of shortcomings in the submission. Among the reasons given by the Commission for the rejection of the petitions and complaints, sixty percent of the cases were rejected because petitioners failed to provide sufficient evidence to

support their charges, eleven percent of the cases were seen to fail because the petitioners missed an important deadline for the submission of legal documents, and 25 percent of the cases were seriously flawed because they requested Commission action in areas which were beyond the FCC's jurisdiction.

Canon's findings about the tendency for well-organized groups to be more successful in fairness complaints suggest that one would expect similiar successes for organized groups in other kinds of action before the FCC. Treating the outcome measures as a six-point rank-ordering of types of decisions ranging from favorable to unfavorable to challenger, Spearman correlation coefficients were calculated for several likely predictors of success before the Commission (Table 3).

Table 3

Spearman correlations between selected characteristics of petitioners, issues and licensees and the outcome of FCC decisions

	r	SIGNIFICANCE*
CHARACTERISTICS OF PETITIONERS		
Private Citizen	.12	n.s.
Local Group (non media)	.19	.004
Local Media Organization	-.14	.03
Local Coalition	.00	n.s.
National-Local Coalition	.06	n.s.
National Organization	-.09	n.s.
National Media Organization	.24	.001
National Coalition	.30	.001
ISSUES		
Ascertainment-Sampling Issue	-.23	.001
Ascertainment-Inaccuracy Issue	-.20	.01
Ascertainment-Falsification Issue	-.12	.05
Political Broadcast/Equal Time Issue	.16	.02
CHARACTERISTICS OF LICENSEES		
Rank (size) of Market	-.22	.002
Rank (price) of Advertising Rate	-.20	.01
FM Radio Station Operator	-.13	.05

*Two-tailed t-test

Cases which had the support of national coalitions of challenging groups or national media organizations had the greatest liklihood of success before the Commission. Local non-media groups also displayed a positive correlation with outcome. A preliminary reanalysis of our data indicates, however, that there was a tendency for local non-media groups to ally themselves with national media organizations.

Cases concerned with issues rising out of a station's ascertainment of community needs were significantly related with unfavorable outcomes to challengers. And while the inferences we can draw for this data are constrained by a highly skewed distribution of outcomes and the use of a number of dichotomous independent variables, we do see some support for the "market power" hypothesis.

The rank of the market (a variable in which all the markets in which stations in our sample were divided into nine categories, with the largest markets being assigned the category with the largest value) and the rank of the advertising rate (where the highest rate-per-minute of advertising time was assigned the highest category) both correlated negatively with success for community groups. That is, the larger the market or the higher the rate card of the licensee, the greater the chance of failure of a community group's action before the FCC.

We also noted a negative relationship, just reaching signficance, between community group success and whether an FM radio station was involved in the proceedings. Explanation of this result must await further analysis.

The most successful prediction of outcome before the Commission was obtained with a multiple regression equation composed of four significant descriptive variables: support by local community media

organization, political broadcast/equal time issue, commerical rate rank and FM broadcast licensee. Together these four variables accounted for more than 26 percent of the variance in the outcome measure.

Table 4

Best Predictors of FCC-Decision-Making Behavior in Cases Involving Community Groups

MULTIPLE REGRESSION EQUATION				
	B	Beta	F	R-sq. Change
Constant	2.24			
Local Community Media Organization	-.38	-.16	5.66	.03
Political Broadcast/ Equal Time Issue	2.47	.36	30.95	.14
Commercial Rate Rank	-.15	-.34	21.40	.065
FM Radio Licensee	-.44	-.19	6.68	.03

(Statistics: R=.51, R-squared=.26, F=15.4, $p(f) < .001$).

DISSENT:

Because of the limitation in the variation in Commission decisions, we felt that we could extend Canon's (1969b) analysis of FCC dissenting behavior to our test of the market power hypothesis. While the FCC as an administrative agency might not act as a body to disturb the economic relationships which had been determined in the marketplace for broadcast licenses, the issuance of a dissenting opinion allowed for greater expression of individual sentiment by the Commissioners. Beyond that, the preparation of lengthy dissents serves not only to warn fellow Commissioners or broadcast interests of changing perspectives

on the Commission, but may also point the way toward reasonable bases for appeals to the federal courts. Data collected on the number of dissents issued with each case revealed enough variation in the issuance of dissents to warrant further analysis (Table 5).

Table 5

Distribution of Dissenting Opinions

DISSENTS		PERCENT
No Dissents	(92)	40.0
One Dissent	(92)	40.0
Two Dissents	(33)	14.3
Three Dissents	(10)	4.3
(No Decision)	(3)	1.3
	230	100 (rounding)

Table 6

Predictors of Dissent: Petitioner, Issue and License Characteristics

	r*	SIGNIFICANCE**
PETITIONER (n)		
Local Coalition (61)	.458	.001
Local Group (71)	.023	.729 (n.s.)
Private Citizen (109)	.256	.001
National Organization (48)	-.229	.001
Black Group Concerns (92)	.360	.001
ISSUES (n)		
Minority Program Absence (97)	.326	.001
News/Public Affairs Absence (70)	.182	.006
Ascertainment (83)	.044	.502 (n.s.)
LICENSEE		
Market	.114	.107 (n.s.)
Commercial Rate	-.054	.475 (n.s.)
LogMark	.194	.006

(*Pearson's r, **two-tailed t-test)

Several variables which describe either the petitioners or the issues surrounding their petition emerged as significant positive correlates (Pearson) with a simple numerical total of issued dissents (Table 6). None of the variables which would discriminate between cases on the basis of the market power of the licensees evidenced any significant relationship to the issuance of dissents.

Because of significant skewedness in both the dissent and market distributions, an additional correlation coefficient was computed for transformations of these variables (Logdis= Log(10)Dissent; LogMark= Log(10)Market). The effect of this transformation was to allow the correlation to rise to .194 (s=0.006). In this case, larger market numbers actually mean smaller audience bases, therefore the correlation should be interpreted as supporting the market power hypothesis. That is, there was a greater tendency to issue dissents in cases involving minor market broadcasters. However, a similar transformation on the Commercial Rate variable failed to approach significance.

The general conclusion to be derived from this analysis of dissents is that as a matter of general practice, the issuance of dissenting opinions tended to be unrelated to the issues of the case. The absence of minority programs, or blind spots in the area of news and public affairs were the only issues which were significantly associated with the issuance of dissents. This might suggest that dissents quite genuinely reflect questions of administrative law, rather than the political, philosophical or career orientations that Canon reported in his analysis of Commission dissents (Canon, 1969b).

However, the fact that so many variables which describe the petitioners did turn out to be significant positive correlates with dis-

sents cannot reasonably be attributed to any inherent tendency for these groups to raise important questions of law. Five of these variables account for 37.5 percent of the variation in dissents. (See Table 7).

Table 7

Best Predictors of Dissents To FCC Decisions Involving Community Groups

MULTIPLE REGRESSION EQUATION				
	B	Beta	F	R(sq)Change
Constant	.39			
National Organization	-.40	-.20	11.85	.05
Local Coalition	.39	.21	10.40	.17
Black Group Concern	.45	.26	18.58	.05
Professional Group Concern	.57	.26	20.81	.07
Private Citizen As A Petitioner	.39	.19	12.31	.03
(Statistics: R=.61, R(Squared)=.38, F=26.56, p(f)<.001)				

Of these five, only the involvement of national organizations was negatively associated with the issuance of dissents. And, more importantly, none of these group or issue characteristics were positively associated with success as measured by our outcome variable (Table 3). Only an analysis of subsequent appeal actions would enable us to offer strong conclusions about the relation between the issuance of dissents and the influence of market power.

DISCUSSION:

We have reviewed Commission decisions on 230 cases involving petitions or complaints by individuals or groups outside the broadcasting in-

dustry. Our analysis has produced support for the first of our two formulations of the market power hypothesis:

> "In the exercise of its administrative responsibilities, the FCC will generally favor those parties who have the greatest financial investment at risk as a result of Commission action." (1)

Specifically, correlations of outcome with various descriptors of petitioner and licensee characteristics reveal that stations in the largest markets or with higher commercial rates receive more favorable rulings than stations in smaller markets, or with lower commercial rates. Our second formulation was that:

> "In the exercise of its administrative responsibilities, the FCC will generally be more responsive to the appeals of organizations with high national visibility in areas other than broadcasting." (2)

Here, support from our data, as presently analyzed, is less clear. While our findings of relatively high correlations between the involvement of national coalitions and national citizens' media organizations would lend support to the hypothesis, the lack of significant correlations for national organizations in general or for national-local coalitions makes the situation more unsure, and the findings of a significant positive correlation between outcome and the involvement of local non-media groups muddles the situation even further.

We have some tentative indications--a Pearson correlation matrix among all our variables--that the overlapping in multiple responses in these categories may be responsible for the confusion, but clarification of this multicollinearity must await further analysis.

One interesting possible interpretation of this data is that it may not be high national visibility per se that influences success with the Commission, but the information and access to the Commission that a

Washington-based media organization possesses. This might explain why national media organizations do so much better than national organizations in general. National coalitions tend to involve national media organizations, and according to our preliminary estimate, the Pearson correlation between national coalitions' involvement in a case and the involvement of national media organizations is .60 ($p<.001$). We expect that even with the variation not explainable by nonparametric statistics, this relationship will remain significant in our further analysis.

Our efforts to go beyond the market power hypothesis and interpret Commission responses to a variety of issues that have been raised during the recent period of citizen activism met with some limited success. Complaints about the efforts of broadcasters to ascertain the community needs of minority groups in the station's coverage area were popular issues for the citizen petitioners. Yet, ascertainment issues were among the most likely candidates for failure in FCC hearings. Our findings seem to lend support to the criticisms so prevalent in the anecdotal literature which suggest that while there is a body of law which identifies broad guidelines for broadcast compliance, the FCC consistently fails to apply those guidelines when such application would disturb the economic status quo.

As far as it goes, our analysis of FCC dissents points a way into an area of inquiry which so far seems to have evaded the attention of mass communication researchers. Characteristics of petitioners and the issues they bring before the Commission are shown to be reliable predictors of the amount of dissention within the Commission. However, because our analysis stops short of following these cases through the

appeals process, it is not possible to assign any definite value to differences in the issuance of dissents. Variables that predict dissent did not generally predict outcome. Future examinations of the dissent phenomenon should provide some means of evaluating the impact of a dissenting opinion on the activities of both citizen activists and broadcasters. It is possible for example, that the impact of a dissent could be estimated from a tabulation of the number of times that the opinion is cited in future hearings.

While we are pleased with the success of our approach in providing evidence in support of the market power hypothesis, we feel that our work has produced little that would be of use to media activists in the preparation of their strategies for action. Indeed, the clearest thing we can suggest is that almost everything is bound to fail. Success does seem tied to association with powerful national groups, many of whom are based in Washington near the offices of the FCC, yet other research (Schement, et al., 1976) suggests that national organizations have a tendency to smother and control local initiative, and in some cases, to distort the initial goals of the local organizations.

Finally, in limiting our outcome measure to FCC decisions, the analysis fails to evaluate a multitude of concessions which the mere initiation of legal action has produced at the local level (BROADCASTING, 1975, p. 34). Future research might make use of reports of such concessions or agreements which are found regularly in industry publications like BROADCASTING. It conceivably could be that while the Commission respects market power in its own deliberations, this same economic power makes the provision of economic and political concessions more likely outside the legal structure.

SELECTED BIBLIOGRAPHY

ATKINS, Jeanni, "Chicano Media Challenge; Basta Ya." FREEDOM OF INFORMATION REPORT, No. 282. Columbia: Univ. of Missouri, 1972

BALDWIN, Thomas., and Stuart H. Surlin, "A Study of Broadcast Station License Application Exhibits on Ascertainment of Community Needs," JOURNAL OF BROADCASTING, 14(2) Spring, 1970

BARRON, Jerome. FREEDOM OF THE PRESS FOR WHOM? Bloomington: Indiana University Press, 1973

BROADCASTING, "Study Finds Clout in Mere Filing of Petitions to Deny," BROADCASTING, 88(5):34, (February 3, 1975)

BURTON, Sandy, "How Some Unknown Chicanos Challenged Two Media Giants and Won," THE REVIEW OF SOUTHERN CALIFORNIA JOURNALISM, No. 5, August, 1972

CANON, Bradley C., "Clientele Attitudes, Perceptions and Compliance With Policy: Broadcasters and the 'Fairness Doctrine." Paper presented at the annual meeting of the Southern Political Science Association, 1968

_____, "The FCC's Disposition of 'Fairness Doctrine' Complaints," JOURNAL OF BROADCASTING, 13(3): 315-324, Summer, 1969

_____, "Voting Behavior on the FCC," MIDWEST JOURNAL OF POLITICAL SCIENCE, 13(4): 587-612, November, 1969

DALY, Warren B., "The FCC's Role in Providing Equal Employment Opportunity for Minority Groups," BOSTON UNIVERSITY LAW REVIEW, 53: 657-710, May, 1973

DILLON, Susan, "Petitions to Deny Broadcast License Renewal: 1964 - June 1974." Mimeographed, CITIZENS COMMUNICATION CENTER, 1974

GELLER, Henry. THE FAIRNESS DOCTRINE IN BROADCASTING: PROBLEMS AND SUGGESTED COURSES FOR ACTION. Santa Monica: Rand, 1973

_____. THE COMPARATIVE RENEWAL PROCESS IN TELEVISION: PROBLEMS AND SUGGESTED SOLUTIONS. Santa Monica: Rand, 1974

JOHNSON, Nicholas, "A Day in the Life: The Federal Communications Commission," THE YALE LAW JOURNAL, 82(8): 1575-1634, July, 1973

KRAMER, Albert, "The Fairness Doctrine: Fairness and Futility," in Kramer, Albert, POLICY WITHOUT PRINCIPLE: A STUDY OF THE FEDERAL COMMUNICATIONS COMMISSION. Mimeograph, 1973

KRASNOW, Erwin and Lawrence Longley. THE POLITICS OF BROADCAST REGULATION. New York: St Martin's Press, 1973

NOLL, Roger, Merton Peck and John McGowan. ECONOMIC ASPECTS OF TELEVISION REGULATION. Washington, D.C.: The Brookings Institution, 1973

ACCESS, "The FCC's Richard Shiben: The Man the Audience Put on Center Stage," ACCESS, No. 2, 1975

PIKE AND FISHER, INC. RADIO REGULATION, SECOND SERIES. Washington, D.C. (continuous publication), 1963-1973

SCHEMENT, Jorge Reina, Felix F. Gutierrez, Esteban Soriano, Oscar Gandy and Timothy Haight, "The Anatomy of a License Challenge," JOURNAL OF COMMUNICATION, (to be published in the Summer 1976 issue).